

# Exhibit 32



**DEPARTMENT OF THE NAVY**  
NAVAL OFFICE OF EEO COMPLAINTS MANAGEMENT  
AND ADJUDICATION  
614 SICARD STREET SE SUITE 100  
WASHINGTON NAVY YARD DC 20374-5072

APR 15 2004

Mr. Milton K. Kaopua  
84-710 Kili Drive #1313  
Waianae, HI 96792

DON No. 03-62813-001  
EEOC No. 370-2003-02350X  
NAVOECMA No. 04-165

Dear Mr. Kaopua:

This is the Department of the Navy's Final Order on your Equal Employment Opportunity (EEO) complaint dated October 3, 2002, amended on May 5, 2003. At the time of the actions giving rise to your complaint, you were employed as a Supervisory Firefighter, GS-081-7, with the Naval Station, Pearl Harbor, Hawaii (Activity).

You claimed discrimination on the bases of race/national origin (Hawaiian), religion (Christian), and mental disability (anxiety, stress, and depression)<sup>1</sup> when: (1) you were subjected to a hostile work environment from November 1998 to October 2002, by a co-worker and management officials; (2) since January 2002 management denied your request for reasonable accommodation; (3) from November 26, 2001, to October 2002, management delayed, misprocessed, and interfered with your Office of Workers' Compensation claims; and (4) from November 26, 2001, to October 2002, management failed to inform you of correct advance sick leave procedures and rights and leave transfer procedures; failed to timely process your requests, and denied your requests for advance sick leave; and the voluntary leave transfer program.

The Department of Defense, Office of Complaint Investigations, investigated your complaint. You were provided a copy of the Investigative File and advised of your right to request a Secretary of the Navy decision, or a hearing and decision by an Administrative Judge (AJ) from the Equal Employment Opportunity Commission (EEOC). You requested a hearing.

An AJ from EEOC's San Francisco District office determined that in your case a decision without a hearing was appropriate. 29 C.F.R. § 1614.109 (g)(3). On February 26, 2004, she issued a decision (AJD), finding no discrimination. EEOC sent you a copy

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<sup>1</sup>During the investigation of your complaint, you identified your disabilities. Investigative File at 59.

of the AJD. The AJD was received in this Office on March 10, 2004.

The AJD will be fully implemented as the Department of the Navy's final action in this matter. 29 C.F.R. § 1614.110(a). Since you are not a prevailing party, you are not entitled to payment of attorney's fees, costs, or compensatory damages. No corrective action is required. 29 C.F.R. § 1614.501.

This is the Final Order of the Department of the Navy on your complaint of discrimination. If you are dissatisfied with this action, you have the following rights:

YOUR RIGHT TO GO TO EEOC

a. You may file a Notice of Appeal with the Equal Employment Opportunity Commission at any time up to thirty (30) calendar days after receipt of this Final Order. Such notice should be addressed to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
P.O. Box 19848  
Washington, DC 20036

As an alternative to mailing your appeal, your appeal may be hand-delivered to:

Equal Employment Opportunity Commission  
Office of Federal Operations  
1801 L Street, NW  
Washington, DC 20507

As a further alternative, you may send your appeal by fax to:

(202) 663-7022.

If you are represented by an attorney of record, the thirty (30) day time period within which to appeal shall be calculated from the receipt of the Final Order by the attorney. In all other cases, the time within which to appeal shall be calculated from your receipt of the Final Order. You should use EEOC Form 573, Notice of Appeal, and indicate what you are appealing. A copy of the appeal form is enclosed.

An appeal shall be deemed filed on the day it is postmarked, or, in the absence of postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission within thirty (30) calendar days of the filing of the Notice of Appeal.

At the same time you provide information to the Commission, you MUST send a copy of the submission to the Activity and to the Deputy Assistant Secretary of the Navy (DASN) Civilian Human Resources (CHR). The copy to the Activity should be sent to the attention of the EEO Officer. The copy to the DASN (CHR) should be sent to: Department of the Navy, Director, Office of EEO Complaints Management & Adjudication, 614 Sicard Street, SE, Suite 100, Washington Navy Yard, DC 20374-5072. Service upon the Department of the Navy of any statement or brief in support of your appeal is mandatory.

In or attached to the appeal to the Commission, you must certify the date and method by which service was made on the Activity and the DASN (CHR).

b. The thirty (30) day time limit within which a Notice of Appeal must be filed will not normally be extended by the Commission. However, the Commission may, at its discretion, extend the time limit and accept the appeal upon a written statement from you explaining why your appeal should be accepted despite its untimeliness. If you cannot satisfactorily explain why your untimeliness should be excused in accordance with § 1614.604, the Commission may dismiss your appeal.

#### YOUR RIGHT TO GO TO FEDERAL COURT

c. Deadline to File Suit. In lieu of appeal to the Commission, you may file a lawsuit in the appropriate United States District Court.

You are authorized under Title VII, the Age Discrimination in Employment Act (ADEA) and the Rehabilitation Act to file a civil action in an appropriate United States District Court:

- (1) within ninety (90) days of receipt of the Final Order on an individual or class appeal if no appeal to the Commission has been filed;
- (2) within ninety (90) days of receipt of the Commission's final decision on appeal; or,
- (3) after 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

You must file the lawsuit WITHIN NINETY (90) DAYS of the date of receipt of this Order, unless you have appealed your case to the Commission. Failure to file your lawsuit within ninety (90) days of receipt of this Order may result in the dismissal of your suit. Filing a civil action under 29 C.F.R. § 1614.408 or 29 C.F.R. § 1614.409 shall terminate Commission processing of the appeal. If private suit is filed subsequent to the filing of an



appeal, the parties are requested to notify the Commission in writing.

d. Special Deadline for Age Discrimination Suits. As to any claim based on the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a), not only must you file suit within ninety (90) days of receipt of this Order, you MAY only have SIX YEARS FROM THE DATE OF THE ALLEGED DISCRIMINATION TO FILE allegations of age discrimination in a lawsuit. See Lehman v. Nakshian, 453 U.S. 156 (1981); 29 U.S.C. 633a(f); and 28 U.S.C. 2401. Filing an appeal to the Commission will not stop that time from running.

If the time limit is close to expiring, you should consider whether or not you wish to file a civil suit. You may be barred from filing such a suit, should you allow the time limit to expire, even if you have an appeal in process with the Commission.

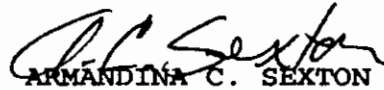
e. Who is the Proper Defendant. If you file a lawsuit, you must sue the Secretary of the Navy by name and title. Presently, the proper defendant is, "Gordon R. England, Secretary of the Navy." Failure to list Mr. England's name and his title may result in the dismissal of your case. Rule 25(d)(2), Federal Rules of Civil Procedure. Only the Secretary of the Navy is a proper defendant under Title VII of the Civil Rights Act of 1964, as amended. 42 U.S.C. 2000e-16(c). Do not sue your supervisor, your unit, your base commanders, or the Department of the Navy. A copy of the civil action must be sent to:

Office of the Navy General Counsel  
1000 Navy Pentagon  
Room 4E724  
Washington, DC 20350-1000

#### YOUR RIGHT TO COUNSEL

f. If you choose to file a lawsuit and you do not have an attorney or are unable to obtain one, you may request the court to help you locate an attorney to represent you. The clerk's office of the nearest U.S. District Court is the best place to contact in order to find out if the court can help you locate an attorney. If you cannot afford an attorney, the clerk's office will explain how you may request the court to appoint an attorney to represent you without payment of any fees or costs. If you need this kind of help, you should contact the court as soon as possible, but no later than ninety (90) days from the date you receive this order. YOUR NINETY (90) DAYS TO FILE SUIT WILL NOT BE TOLLED WHILE YOU ATTEMPT TO GET AN ATTORNEY. IF YOU ARE GOING

TO FILE A LAWSUIT, YOU MUST DO SO IN NINETY (90) DAYS WITH OR WITHOUT AN ATTORNEY.



ARMANDINA C. SEXTON

Director

Naval Office of EEO Complaints  
Management & Adjudication

Enclosure:

(1) EEOC Appeal Form 573

Copy to: (w/o encl. (1))  
Commanding Officer, Naval Station  
Attn: Deputy EEO Officer  
Human Resources Office (N01CP4)  
850 Ticonderoga Street, Suite 110  
Pearl Harbor, HI 96860-5101

Commander, Navy Region Hawaii  
Attn: Mr. Jacob Bradley  
Human Resources Office  
850 Ticonderoga Street, Suite 110  
Pearl Harbor, HI 96860-5101

U.S. Equal Employment Opportunity Commission  
San Francisco District Office  
Attn: Jeanne M. L. Player, Esq.  
350 The Embarcadero, Suite 500  
San Francisco, CA 94105-1260

Copy to:  
Eldridge W. Smith, Esq.  
Smith Himmelmann, AAL, ALC  
841 Bishop Street, Suite 909  
Honolulu, HI 96813

TH/dje